

EXHIBIT 9

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,
Plaintiff,
vs. No. CV 10-03561 WHA
GOOGLE INC.,
Defendant.

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
VIDEOTAPED DEPOSITION OF URS HÖLZLE
Palo Alto, California
Tuesday, November 24, 2015
Volume I

Reported by:
CATHERINE A. RYAN
CSR No. 8239
Job No. 2189225

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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ORACLE AMERICA, INC.,)
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Plaintiff,)
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vs.) No. CV 10-03561 WHA
)
GOOGLE INC.,)
)
)
Defendant.)
)

Videotaped deposition of URS HÖLZLE,
Volume I, taken on behalf of Plaintiff, at 601
California Avenue, Suite 100, Palo Alto, California,
beginning at 10:05 a.m. and ending at 7:35 p.m., on
Tuesday, November 24, 2015, before CATHERINE A.
RYAN, Certified Shorthand Reporter No. 8239.

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16 WALTER MOSTOWY, Google

17 FRANK CLARE, Videographer, Veritext

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WITNESS

EXAMINATION

URS HÖLZLE

Volume I

BY MS. HURST

10

EXHIBITS

NUMBER

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Supplemental Initial Witness
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Service"; 5 pages

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Not Be Good for Java, eWeek"; 4 pages

Exhibit 5002 "Business Insider, 2 of the smartest
people at Google are worried about
this one thing"; 2 pages

Exhibit 5003 "Plaintiff's Notice of Deposition of
Google Inc., Pursuant to Fed. R. Civ.
P. 30(b)(6)" and attachments; 9 pages

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1 Palo Alto, California; Tuesday, November 24, 2015
2 10:05 a.m.

3
4 THE VIDEOGRAPHER: Good morning. We are
5 on the record at 10:05 A.M. on November 24th, 2015.
6 This is the video-recorded deposition of Urs Hölzle
7 and Google. My name is Frank Clare, here with our
8 court reporter, Catherine Ryan. We are here from
9 Veritext Legal Solutions at request of counsel for
10 Plaintiff. This deposition is being held at King &
11 Spalding in Palo Alto, California. The caption of
12 this case is Oracle America, Incorporated versus
13 Google Incorporated, Case No. CV10-03561 WHA.

14 Please note that audio and video recording
15 will take place unless all parties agree to go off
16 the record. Microphones are sensitive and may pick
17 up whispers, private conversations, and cellular
18 interference.

19 I'm not related to any party in this
20 action. Nor am I financially interested in the
21 outcome in any way.

22 At this time will all people in the room
23 identify themselves, please.

24 MS. HURST: Annette Hurst and Abigail
25 Lubow for Oracle, and also on the phone are Alyssa

1 Caridis from Orrick and Ruchika Agrawal from Oracle.

2 MS. ANDERSON: Good morning. Christa
3 Anderson with Keker & Van Nest, here for Google.
4 Also with me today is Mr. Renny Hwang and Mr. Walter
5 Mostowy from Google.

6 THE VIDEOGRAPHER: Thank you. The court
7 reporter will administer the oath and examination
8 may begin.

9 URS HÖLZLE,
10 having been administered an oath, was examined and
11 testified as follows.

12 MS. ANDERSON: Just before questioning
13 begins, I just wanted to state for the record that,
14 to avoid interrupting counsel, we're going to
15 generally designate this testimony as attorneys'
16 eyes only, but, of course, we will review the
17 transcript to determine what parts should be
18 de-designated pursuant to the rules of the
19 protective order.

20 And also, as is traditional here in this
21 case, the witness reserves the right to read and
22 sign.

23 MS. HURST: In addition, Ms. Anderson, we
24 also discussed how to handle the fact that the
25 witness would be appearing in both an individual --

1 Q Is it fair to say that your opinion that
2 you expressed to Mr. Rubin was that he conduct due
3 diligence and that he use untainted engineers to do
4 so?

5 A I would say that my attempt here in
6 re-creating my train of thought was that for some
7 reason he was concerned about tainted and, basically
8 said, oh, we're going to skip the eval. Like, we're
9 not going to have experts. And I said, gee, that is
10 not a good idea. If you are worried about that,
11 there are people who clearly aren't tainted, right,
12 where tainted means have worked at Sun, and I don't
13 say, because I don't want to be seen as telling him
14 what to do, that he should use that. I'm saying
15 there is definitely the option of having people who
16 are experts and who have not worked at Sun.

17 Q Just what -- after the sentence where you
18 identify Jeff and Sanjay, just -- just read the next
19 sentence for us, Mr. Hölzle.

20 A Yes. "But perhaps I misread your email
21 and you are not as desperate as it sounds."

22 Q Okay. So your perception at the time you
23 wrote your email on July 23rd, 2006, was that
24 Mr. Rubin was desperate; true?

25 A He was rushing, and I used the words

1 "desperate" to say, gee, you're not in a -- you
2 know, you're not planning to delay things a lot for
3 a deep inspection, like -- which I recommended.

4 Q You used the word "desperate."

5 A I totally used the word "desperate," yes.

6 Q All right. And then Mr. Rubin responded
7 to you: "We haven't done the due diligence yet";
8 right?

9 A Correct.

10 Q And he describes the steps and the
11 transaction, explaining why due diligence would come
12 later; right?

13 A Uh-huh, yes.

14 Q Yeah. And then he gives a little more
15 background; do you see that?

16 A Uh-huh.

17 Q He says: "We have an in-house VM." You
18 understand that to mean virtual machine; right?

19 A Yes.

20 Q "We're looking to acquire MID P2.0"; do
21 you see that?

22 A Uh-huh.

23 Q I'm sorry. Can you say "Yes" for the --

24 A Yes.

25 Q Thank you.

1 acquisition. The acquisition was really motivated
2 by both Larry and Sergey's insight that basically at
3 the time of the acquisition mobile phones were not
4 programmable.

5 I'm quoted somewhere in the press because
6 I remember giving that email -- that interview maybe
7 a year before that mobile phones are not
8 programmable, like the Nokia phones, because at the
9 time we had a very simple Google search app that
10 basically gave you a screen and led you to a query
11 and get back results, and we literally had 147
12 versions of this because every single phone back
13 then, mostly Nokia, had a different way of doing
14 things, and so even though everything was Java, it
15 was literally -- even the same phone had
16 different -- you know, different APIs depending on
17 the -- on the carrier that carried the phone. And
18 so we had no common platform, and it was impossible
19 to really build any applications on it.

20 And so Larry and Sergey recognized early
21 on that if someone writes a phone that actually can
22 be a platform for real software development, then
23 it's important for that platform to be open because
24 if -- if it was not, then access to search would
25 possibly be blocked by the owner of the platform,

1 and we had lived through that on a desktop with
2 Microsoft, who was not favorably disposed to make it
3 to easy to use Google from the Microsoft browser.

4 And so they saw that, well, at some point
5 someone is going to do an operating system for
6 mobile phones that actually is usable that actually
7 is a platform that you can write real applications
8 for, and that platform would be open, right, because
9 if it's closed -- if it's Microsoft, again, for
10 example, then we're going to be toast. You know,
11 it's not good if the platform is controlled by
12 someone else. And that was three years or so before
13 smartphones actually happened.

14 So at the time it was, you know, pretty
15 forward-looking because it wasn't actually possible
16 to do it at the time. The hardware just wasn't fast
17 enough. But, you know, two years later the iPhone
18 came out, and a year or so after that Android came
19 out. And so that's how it happened. Java was --
20 I'm sure was not mentioned in the discussion at all
21 just because it wasn't about Java. It was about a
22 mobile operating system and a user experience that
23 allows more ambitious applications to exist.

24 BY MS. HURST:

25 Q All right. You said that it was Larry and

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

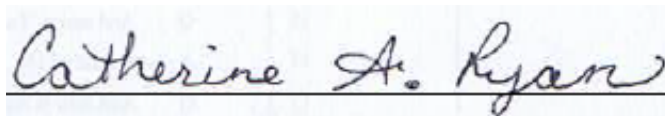
4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing is a true
11 record of the testimony given.

12 Further, that if the foregoing pertains to the
13 original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [] was [] was not requested.

16 I further certify that I am neither
17 financially interested in the action nor a relative
18 or employee of any attorney or any party to this
19 action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name.

22 Dated: 12/8/15

23 
24

Catherine A. Ryan, RMR, CRR

25 CSR No. 8239